

1. This is a class action for damages and other relief brought by plaintiffs on behalf of all persons whose rights under the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681-1681x, were violated by Defendant , First Student, Inc. (“First Student”), on or after October 5, 2007, when First Student terminated their employment or denied them employment in reliance on information contained in “consumer reports” without first providing them with: (a) a pre-adverse action disclosure which includes a copy of the employee’s consumer report obtained from the consumer reporting agency and a description in writing of the employee’s rights under the FCRA; and (b) a pre-adverse action opportunity to dispute the accuracy of the reported information.

Parties

2. Plaintiffs, Tasha Joshaway (“Joshaway”), Michael Yurkowski (“Yurkowski”) and Debbie Goin (“Goin”), are all residents of the Central District of Illinois. Joshaway, Yurkowski and Goin all reside in Kankakee County, Illinois.

3. Defendant, First Student, a Delaware corporation headquartered in Cincinnati, is the largest provider of student transportation in North America. First Student is a business unit of FirstGroup America and is wholly-owned by FirstGroup plc, which is incorporated in the United Kingdom.

Jurisdiction and Venue

4. The Court has jurisdiction of this matter under 28 U.S.C. § 1331 and 15 U.S.C. § 1681p.

5. Venue is proper in the Central District of Illinois under 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to plaintiffs’ claims occurred in this judicial district.

Factual Allegations

Plaintiff Tasha Joshaway

6. On or about March 28, 2008, Joshaway commenced her employment as a school bus operator with First Student in Kankakee, Illinois.

7. Sometime thereafter, First Student requested a consumer report containing criminal background information on Joshaway from USIS Commercial Services, Inc. (“USIS”). USIS is a consumer reporting agency as defined in 15 U.S.C. § 1681a(d)(1). USIS prepared the requested consumer report and delivered it to First Student.

8. On or about June 17, 2009, First Student suspended Joshaway without pay on the basis of criminal background information contained in the consumer report USIS provided First Student.

9. By letter dated June 24, 2009, First Student terminated Joshaway's employment based on information provided in the USIS consumer report.

10. At no time prior to her suspension and discharge did First Student provide Joshaway with a copy of the USIS consumer report or an opportunity to dispute the accuracy of the information provided in the USIS consumer report.

Plaintiff Michael Yurkowski

11. On or about December 21, 2005, Yurkowski commenced his employment as a school bus operator with First Student in Kankakee, Illinois.

12. Sometime thereafter, First Student requested a consumer report containing criminal background information on Yurkowski from USIS. USIS prepared the requested consumer report and delivered it to First Student.

13. On or about June 29, 2009, First Student suspended Yurkowski without pay on the basis of criminal background information contained in the consumer report USIS provided First Student.

14. By letter dated July 1, 2009, First Student terminated Yurkowski's employment based upon information provided in the USIS consumer report.

15. At no point prior to his suspension and discharge did First Student provide Yurkowski with a copy of the USIS consumer report or an opportunity to dispute the accuracy of the information provided in the USIS consumer report.

Plaintiff Debbie Goin

16. In or around March 2001, Goin began her employment as a school bus operator with First Student, in Kankakee, Illinois.

17. Sometime thereafter, First Student requested a consumer report containing criminal background information on Goin from USIS. USIS prepared the requested consumer report and delivered it to First Student.

18. On or about August 18, 2009, First Student suspended Goin without pay on the basis of criminal background information contained in the consumer report USIS provided First Student.

19. By letter dated August 23, 2009, First Student terminated Goin's employment based on information provided in the USIS consumer report.

20. At no time prior to her suspension and discharge did First Student provide Goin with a copy of the USIS consumer report or an opportunity to dispute the accuracy of the information set forth in the USIS consumer report.

The Requirements of the Fair Credit Reporting Act (FCRA)

21. Pursuant to 15 U.S.C. § 1681b(b)(3), the FCRA requires that prior to taking any adverse action against an employee or employment applicant based on information contained in a consumer report obtained from a consumer reporting agency, an employer must provide the employee or employment applicant with: (a) a pre-adverse action disclosure which includes a copy of the employee's consumer report obtained from a consumer reporting agency and a description in writing of the employee's rights under the FCRA; and (b) a pre-adverse action opportunity to dispute the accuracy of the reported information before any adverse action is taken. Pursuant to 15 U.S.C. § 1681a(d), the definition of a "consumer report" for purposes of

the FCRA includes a criminal background check used for employment purposes. Pursuant to 15 U.S.C. § 1681a(k), the definition of “adverse action” for purposes of the FCRA includes “a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.”

22. On information and belief, First Student has a nationwide policy and practice of requesting that USIS or other consumer reporting agencies provide it with consumer reports containing criminal background information on all employees and employment applicants and of taking adverse employment action based on information contained in those reports without providing employees or employment applicants: (a) a pre-adverse action disclosure containing a copy of the consumer report obtained from the consumer reporting agency and a description in writing of the employee’s rights under the FCRA; or (b) a pre-adverse action opportunity to dispute the accuracy of the reported information.

23. Plaintiffs, Joshaway, Yurkowski and Goin, bring this lawsuit pursuant to Federal Rule of Civil Procedure 23, on behalf of themselves and all former employees and employment applicants of First Student who, on or after October 5, 2007, suffered adverse employment action based on information contained in consumer reports without receiving: (a) a pre-adverse action disclosure containing a copy of the employee’s consumer report obtained from the consumer reporting agency and a description in writing of the employee’s rights under the FCRA; or (b) a pre-adverse action opportunity to dispute the accuracy of the reported information before any adverse action was taken.

24. The class defined above satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23. The class is so numerous that joinder of all members is impracticable. Common questions of law and fact predominate over

individual issues affecting only individual class members. The common questions of law and fact include, *inter alia*, the following:

- a. whether the defendant failed to provide each class member with a pre-adverse action disclosure containing a copy of each employee's consumer report which the Defendant obtained from the consumer reporting agency and a description in writing of the employee's rights under the FCRA;
- b. whether the defendant failed to provide class members with a pre-adverse action opportunity to dispute the accuracy of the reported information; and
- c. whether defendant's actions as described above constitute violations of the FCRA.

25. Plaintiffs will fairly and adequately protect the interests of all class members. Plaintiffs are members of the class and their claims are typical of the claims of all class members. Their interests in obtaining monetary relief for the violations of their rights by defendant are consistent with and are not antagonistic to those of any person within the class.

26. A class action is superior to other available methods for the fair and efficient adjudication of this controversy because it will:

- a. avoid the heavy burden of multiple, duplicative suits;
- b. avoid the virtually impossible task of getting all class members to intervene as party-plaintiffs in this action;
- c. allow the Court, upon adjudication of defendant's liability, to determine the claims of all class members; and
- d. allow the Court to enter appropriate final monetary relief with respect to the class as a whole.

Count One – First Student's FCRA violations

27. Plaintiffs reallege and incorporate by reference paragraphs 1-26 of this Complaint as if fully set forth herein.

28. First Student has willfully failed to provide plaintiffs and members of plaintiff class, as required by 15 U.S.C. § 1681b(b)(3), with: (a) a pre-adverse action disclosure containing a copy of the consumer report and a description of their rights under the FCRA; and (b) a pre-adverse action opportunity to dispute the accuracy of the information contained in the consumer report.

29. First Student's willful violation of 15 U.S.C. § 1681b(b) has caused damages to plaintiffs and members of the plaintiff class for which damages First Student is liable under 15 U.S.C. § 1681n.

30. In the alternative to paragraph 29 of this complaint, First Student negligently failed to provide plaintiffs and members of plaintiff class, as required by 15 U.S.C. § 1681b(b)(3), with: (a) a pre-adverse action disclosure containing a copy of the consumer report and a description of their rights under the FCRA; and (b) a pre-adverse action opportunity to dispute the accuracy of the information contained in the consumer report.

31. In the alternative to paragraph 30 of this complaint, First Student's negligent violation of 15 U.S.C. § 1681b(b) has caused damages to plaintiffs and members of the plaintiff class for which damages First Student is liable under 15 U.S.C. § 1681o.

Prayer for Relief

WHEREFORE, plaintiffs respectfully request, on behalf of themselves and the class they seek to represent, that this Court:

- A. Certify this action as a class action, pursuant to Fed. R. Civ. P. 23(b)(3), on behalf of the proposed plaintiff class and designate the named plaintiffs as representatives of the class and their counsel of record as class counsel;
- B. Award statutory, actual and punitive damages against defendant to plaintiffs and members of the plaintiff class as provided in 15 U.S.C. §§ 1681n and 1681o;

- C. Award plaintiffs and class members their attorneys' fees and the costs of this action pursuant to 15 U.S.C. §§ 1681n and o;
- D. Award plaintiffs and class members their costs pursuant to 28 U.S.C. § 1920; and
- E. Grant all such additional relief as the Court deems appropriate.

Jury Demand

Plaintiffs demand trial by jury on all issues as to which a jury trial is available.

Respectfully submitted,

S/ Kalman D. Resnick
One of the Attorneys for Plaintiffs

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS	DEFENDANTS
<p>(b) County of Residence of First Listed Plaintiff _____ (EXCEPT IN U.S. PLAINTIFF CASES)</p> <p>(c) Attorney's (Firm Name, Address, and Telephone Number) _____</p>	<p>County of Residence of First Listed Defendant _____ (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.</p> <p>Attorneys (If Known) _____</p>

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)	III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)																								
<p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th></th><th style="text-align: center;">PTF</th><th style="text-align: center;">DEF</th><th></th><th style="text-align: center;">PTF</th><th style="text-align: center;">DEF</th></tr></thead><tbody><tr><td>Citizen of This State</td><td style="text-align: center;"><input type="checkbox"/> 1</td><td style="text-align: center;"><input type="checkbox"/> 1</td><td>Incorporated <i>or</i> Principal Place of Business In This State</td><td style="text-align: center;"><input type="checkbox"/> 4</td><td style="text-align: center;"><input type="checkbox"/> 4</td></tr><tr><td>Citizen of Another State</td><td style="text-align: center;"><input type="checkbox"/> 2</td><td style="text-align: center;"><input type="checkbox"/> 2</td><td>Incorporated <i>and</i> Principal Place of Business In Another State</td><td style="text-align: center;"><input type="checkbox"/> 5</td><td style="text-align: center;"><input type="checkbox"/> 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td style="text-align: center;"><input type="checkbox"/> 3</td><td style="text-align: center;"><input type="checkbox"/> 3</td><td>Foreign Nation</td><td style="text-align: center;"><input type="checkbox"/> 6</td><td style="text-align: center;"><input type="checkbox"/> 6</td></tr></tbody></table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated <i>or</i> Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated <i>and</i> Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
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IV. NATURE OF SUIT (Place an "X" in One Box Only)								
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES				
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<table border="1" style="width: 100%; border-collapse: collapse;"><thead><tr><th style="width: 50%;">PERSONAL INJURY</th><th style="width: 50%;">PERSONAL INJURY</th></tr></thead><tbody><tr><td><input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury</td><td><input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability</td></tr></tbody></table>	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
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V. ORIGIN (Place an "X" in One Box Only)							
<input type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from another district (specify) _____	<input type="checkbox"/> 6 Multidistrict Litigation	<input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment	

VI. CAUSE OF ACTION	Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
	Brief description of cause: _____

VII. REQUESTED IN COMPLAINT:	<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$ _____	CHECK YES only if demanded in complaint: JURY DEMAND: <input type="checkbox"/> Yes <input type="checkbox"/> No
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VIII. RELATED CASE(S) IF ANY	(See instructions): JUDGE _____	DOCKET NUMBER _____
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DATE _____	SIGNATURE OF ATTORNEY OF RECORD _____
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FOR OFFICE USE ONLY

RECEIPT # _____	AMOUNT _____	APPLYING IFP _____	JUDGE _____	MAG. JUDGE _____	
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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.